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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,
Plaintiff,
v.
JOSHUA COLA,
Defendant

Case No. 2:22-cr-00263-JCM-NJK

**STIPULATION TO CONTINUE
CHANGE OF PLEA HEARING**

(First Request)

IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson, United States Attorney, and Melanee Smith, Assistant United States Attorney, counsel for the United States of America, and Rene L. Valladares, Federal Public Defender, and Nisha Brooks-Whittington, Assistant Federal Public Defender, counsel for Joshua Cola, that the Change of Plea Hearing currently scheduled on May 17, 2024 at 10:30 a.m., be vacated and continued to a date and time convenient to the Court, but no sooner than sixty (60) days.

This Stipulation is entered into for the following reasons:

1. The Ninth Circuit Court of Appeals recently issued an opinion in *United States v. Duarte*, No. 22-50048, 2024 WL 2068016 (9th Cir. May 9, 2014), concluding that 18 U.S.C. § 922(g)(1) (i.e felon in possession of a firearm) is unconstitutional as applied to the defendant, a non-violent offender who had served prison time. *Duarte* is relevant to Mr. Cola’s case as he

1 is also charged with felon in possession of a firearm under 18 U.S.C. § 922(g)(1). Defense
2 counsel needs additional time to review the *Duarte* case, determine its implication in this case,
3 and discuss the case with Mr. Cola prior to proceeding with a change of plea hearing.

4 2. The defendant is in custody and agrees with the need for the continuance.

5 3. The parties agree to the continuance.

6 This is the first request for a continuance of the Change of Plea hearing.

7 DATED this 16th day of May 2024.

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9 RENE L. VALLADARES
Federal Public Defender

JASON M. FRIERSON
United States Attorney

10
11 /s/ *Nisha Brooks-Whittington*
By _____
12 NISHA BROOKS-WHITTINGTON
Assistant Federal Public Defender

13 /s/ *Melanee Smith*
By _____
14 MELANEE SMITH
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,
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Case No. 2:22-cr-00263-JCM-NJK

ORDER

IT IS ORDERED that the Change of Plea hearing currently scheduled for Friday, May 17, 2024 at 10:30 a.m., be vacated and continued to **July 17, 2024, at 10:30 a.m.**

DATED May 16, 2024.

Jewell C. Mahan
UNITED STATES DISTRICT JUDGE